

### § 3.557

action is necessary to meet the veteran's financial needs, if the veteran has been hospitalized for more than 6 months and the periods of absence exceed a total of 30 days.

(d) *Irregular discharge.* When a competent veteran is given an irregular discharge, the full rate will be restored effective the date of release from the hospital. Payment of any amount withheld under § 3.551(b) will not be authorized until the expiration of 6 months after termination of hospitalization unless the prior release is changed to a regular release. However, amounts not paid under paragraph (c) of this section covering absence of less than 30 days where the award was reduced under § 3.551(c) will be authorized immediately.

(e) *Regular discharge.* When a veteran, either competent or incompetent, is given a regular discharge or release, the full rate, including any allowance for regular aid and attendance will be restored effective the date of release from the hospital, subject to prior payments. The award will be based on the most recent rating and, where the award was reduced under § 3.551(b), will include, in the case of a competent veteran, any amounts withheld because of hospitalization. The amount withheld for an incompetent veteran will not be authorized until the expiration of 6 months following a rating of competency by VA. Any institutional award will be discontinued effective date of last payment, as provided in § 3.501(j). Where an apportionment made under § 3.551(c) is not continued, the apportionment will be discontinued effective the day preceding the date of the veteran's release from the hospital, or, if adjusted, effective the date of the veteran's release from the hospital, unless an overpayment would result. In the excepted cases, the awards to the veteran and apportionee will be adjusted as of date of last payment.

(Authority: 38 U.S.C. 5503)

(f) *Types of discharges.* A discharge is considered regular if it is granted because of having received maximum hospital benefits. A discharge for disciplinary reasons or because of the patient's refusal to accept, neglect of or obstruction of treatment; refusal to ac-

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cept transfer, or failure to return from authorized absence, is considered irregular.

[27 FR 7678, Aug. 3, 1962, as amended at 27 FR 8794, Sept. 1, 1962; 38 FR 34115, Dec. 11, 1973; 39 FR 34532, Sept. 26, 1974; 40 FR 45169, Oct. 1, 1975; 44 FR 22721, Apr. 17, 1979; 44 FR 45942, Aug. 6, 1979; 50 FR 50616, Dec. 11, 1985]

### § 3.557 [Reserved]

### § 3.558 Resumption and payment of withheld benefits; incompetents with estates that equaled or exceeded statutory limit.

(a) Payments for the veteran will be resumed and apportionment awards discontinued under the applicable provisions of § 3.556(a), (d), and (e) upon authorized absence from the hospital for 30 days or more or a regular or irregular discharge or release. Care and maintenance payments to an institution will not be made for any period the veteran is not receiving such care and maintenance.

(b) Any amount not paid because of the provisions of former § 3.557(b) (as in effect prior to December 27, 2001), and any amount of compensation or retirement pay withheld pursuant to the provisions of § 3.551(b) (and/or predecessor regulatory provisions) as it was constituted prior to August 1, 1972, and not previously paid because of the provisions of former § 3.557(b) (as in effect prior to December 27, 2001), will be awarded to the veteran if he or she is subsequently rated competent by VA for a period of not less than six months.

(Authority: 38 U.S.C. 5503)

[27 FR 7679, Aug. 3, 1962, as amended at 36 FR 25225, Dec. 30, 1971; 38 FR 34116, Dec. 11, 1973; 40 FR 45170, Oct. 1, 1975; 41 FR 18412, May 4, 1976; 50 FR 50617, Dec. 11, 1985; 58 FR 34224, June 24, 1993; 66 FR 48560, Sept. 21, 2001; 68 FR 34542, June 10, 2003]

### § 3.559 [Reserved]

### ADJUSTMENTS AND RESUMPTIONS

### § 3.650 Rate for additional dependent.

(a) *Running awards.* Except as provided in paragraph (c) of this section where a claim is filed by an additional